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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 SECURITIES AND EXCHANGE
4 COMMISSION,

Plaintiff,

v.

16 CV 3505 (WHP)

6 DEVON ARCHER, et al.,

7 Defendants.

8 -----x

9 New York, N.Y.
10 November 10, 2016
4:34 p.m.

11 Before:

12 HON. WILLIAM H. PAULEY III,

13 District Judge

14 APPEARANCES (By Telephone)

15 SECURITIES AND EXCHANGE COMMISSION

Attorneys for Plaintiffs

16 BY: NANCY BROWN

GREG BAKER

17 BOISE SCHILLER & FLEXNER

18 Attorneys for Defendant Archer

19 BY: DAVID NELSON

20 SPERTUS LANDES & UMHOFFER

Attorneys for Defendant Cooney

21 BY: DIANE BANG

22 WIAND GUERRA KING

Attorneys for Defendant Hirst

23 BY: MATTHEW MUELLER

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1 THE COURT: Good afternoon. This is District Judge
2 Pauley. You're on a speakerphone in my robing room and a court
3 reporter is present recording what is being said.

4 Would counsel for the plaintiffs give their
5 appearance.

6 MS. BROWN: Good afternoon, your Honor. Nancy Brown
7 and Greg Baker for the SEC.

8 THE COURT: Good afternoon, Ms. Brown.

9 Would counsel for defendant Archer give his
10 appearance.

11 MR. NELSON: Good afternoon, your Honor. It's David
12 Nelson. I'm with Boise Schiller & Flexner on behalf of
13 Mr. Archer.

14 THE COURT: Good afternoon, Mr. Nelson.

15 And counsel for defendant Cooney.

16 MS. BANG: Good afternoon, your Honor. Diane Bang
17 from Spertus Landes & Umhofer.

18 THE COURT: Good afternoon, Ms. Bang.

19 And, finally, counsel for defendant Hirst.

20 MR. MUELLER: Good afternoon, your Honor. Matthew
21 Mueller from Wiand Guerra King on behalf of Mr. Hirst.

22 THE COURT: Good afternoon to you, Mr. Mueller.

23 Is there anything else on the call?

24 All right. Silence is golden.

25 I'd ask to the extent anyone speaks that they identify

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1 themselves first before speaking.

2 I asked my law clerk to set up a quick conference call
3 in this matter because the other day the SEC filed a motion to
4 amend the complaint to add a defendant and request a slight
5 modification in the relief requested. There's a lot of paper
6 here, Ms. Brown, on that motion, and perhaps it would have been
7 easier for everybody if the SEC had just followed the
8 individual rules of practice and written me a short letter
9 because I would have said there's no need to file a motion to
10 amend a complaint to add a defendant, especially at this stage
11 of the litigation. And I wanted to get this word out because
12 there's no need for anybody to oppose the motion. Leave should
13 be freely given under Rule 15.

14 The other issue that I noticed in looking at the
15 proposed amended pleading is that while you've added a
16 defendant, you have not added him to the caption of your
17 amended complaint. That will make it very difficult for the
18 clerk, and I don't like to make things difficult for the clerk.

19 So is there anyone that has a view that the SEC should
20 not be permitted to file an amended complaint with a corrected
21 caption by early next week? Anybody want to be heard on that?

22 Once again, silence says it all.

23 So no one has to respond to this motion or appear at
24 any hearing. The SEC's application is granted. I will issue a
25 short order authorizing the filing of an amended complaint.

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1 And when can you file the amended complaint and make
2 the correction in the caption that I've pointed out to you,
3 Ms. Brown?

4 MS. BROWN: Next week, your Honor.

5 THE COURT: Okay. So shall we say by November 15?

6 MS. BROWN: Sure.

7 THE COURT: All right. Anything else?

8 MS. BROWN: Not from us. Thank you.

9 THE COURT: Thanks for putting this phone call
10 together. I just think it was a lot easier than trying to set
11 up a hearing. Okay. And we need a correct caption in the
12 case. Okay?

13 MS. BROWN: Yes, your Honor.

14 THE COURT: All right. Have a good evening, everyone.

15 MS. BROWN: Thank you.

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